

<sup>2</sup> The Board notes that appellant submitted additional evidence after OWCP rendered its December 11, 2015 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, this additional evidence cannot be considered by the Board. 20 C.F.R. § 501.2(c)(1).

### **FACTUAL HISTORY**

OWCP accepted that on September 8, 1997 appellant, a 57-year-old service representative, suffered a lumbosacral strain as a result of moving chairs around “to open office and to pick up trash.” Continuation of pay commenced on September 16, 1997 and she was eventually placed on the periodic compensation rolls.<sup>3</sup>

Once on the periodic compensation rolls OWCP regularly sends appellant a letter (Form CA-1032) requesting that she complete an enclosed form (Form EN1032) with regard to her employment activity, if any, within the past 15 months.<sup>4</sup> By Form CA-1032 dated October 14, 2015, it informed appellant that federal regulations required her to make an affidavit relative to any earnings or employment during the previous year and that an EN1032 form was enclosed for that purpose. OWCP notified appellant that she had to fully answer all questions on the form and return the statement within 30 days or her benefits would be suspended pursuant to 20 C.F.R. § 10.528. The letter was mailed to her address of record. No response was received.

By decision dated December 11, 2015, OWCP suspended appellant’s compensation benefits effective December 13, 2015 for failing to complete the EN1032 form as requested. It noted that, if she completed and returned an enclosed copy of the form, her compensation benefits would be restored retroactively to the date they were suspended.

### **LEGAL PRECEDENT**

FECA authorizes the Secretary of Labor to require a partially disabled employee to report her earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies.<sup>5</sup>

Under section 10.528 of OWCP’s implementing federal regulations, an employee in receipt of compensation benefits must complete an affidavit as to any work or activity indicating an ability to work which the employee has performed for the prior 15 months.<sup>6</sup> If an employee who is required to file such a report fails to do so within 30 days of the date of the request, his or her right to compensation for wage loss is suspended until OWCP receives the requested report. At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.<sup>7</sup>

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<sup>3</sup> By decision dated October 9, 1998, OWCP adjusted appellant’s compensation to reflect her wage-earning capacity due to her reemployment as a modified service representative, four hours per day, effective January 15, 1998.

<sup>4</sup> The EN1032 form also requests information with respect to dependents, receipt of other federal benefits, third-party settlements, and fraud offenses.

<sup>5</sup> 5 U.S.C. § 8106(b).

<sup>6</sup> 20 C.F.R. § 10.528. *See also A.H.*, Docket No. 15-241 (issued April 3, 2015).

<sup>7</sup> *Id.*; *see also id.* at § 10.525.

### **ANALYSIS**

The Board finds that OWCP properly suspended appellant's compensation benefits effective December 13, 2015 for failure to complete the EN1032 form as requested.

On October 14, 2015 OWCP provided appellant with the EN1032 form. It notified her that federal regulations required her to complete the form and answer all questions concerning her employment or earnings. OWCP properly notified appellant that, if she did not completely answer all questions and return the statement within 30 days, her benefits would be suspended. The record reflects that OWCP's letter was properly sent to her address of record.<sup>8</sup> Under the mailbox rule, a document mailed in the ordinary course of the sender's business practices to the addressee's last known address is presumed to be received by the addressee.

Appellant failed to timely submit the EN1032 form within 30 days.<sup>9</sup> Appellant was receiving wage-loss compensation and she was required to complete the EN1032 form. The failure to file an EN1032 form within 30 days results in the suspension of compensation. Thus, the Board finds that OWCP properly suspended appellant's compensation benefits effective December 13, 2015 pursuant to 20 C.F.R. § 10.528.<sup>10</sup>

On appeal, appellant submitted additional evidence. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision.<sup>11</sup> Therefore, this additional evidence cannot be considered by the Board. As noted, appellant's benefits may be retroactively reinstated once she submits the EN1032 form to OWCP.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that OWCP properly suspended appellant's compensation benefits effective December 13, 2015 for failure to complete an EN1032 form as requested.

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<sup>8</sup> See *Kenneth E. Harris*, 54 ECAB 502, 505 (2003); *J.J.*, Docket No. 13-1067 (issued September 20, 2013).

<sup>9</sup> See *I.S.*, Docket No. 15-0800 (issued July 7, 2015) (where the employee stated that she had not completed the forms in a timely manner because she had health issues and had been hospitalized for a short period on two occasions, the Board found that she had failed to timely submit the EN1032 form within 30 days and that suspension was proper; however, appellant was advised that compensation benefits would be reinstated retroactive to the date of suspension once she properly submitted the requested information to OWCP).

<sup>10</sup> See *M.W.*, Docket No. 15-0507 (issued June 18, 2015).

<sup>11</sup> See *supra* note 2.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 11, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 19, 2016  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board